

## **UN Common Approach to Justice for Children**

**March 2008**

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## **PART ONE: RATIONALE AND DEFINITION OF JUSTICE FOR CHILDREN**

### **The need for a common UN strategic approach to justice for children**

Justice has long been high on the international development agenda. The UN and other bilateral and multilateral development partners recognise the importance of rule of law<sup>1</sup> and a functioning justice system in reducing poverty as well as promoting peace, security and human rights. Rule of law approaches are thus a cornerstone of UN commitment to the Millennium Declaration and the fulfilment of the Millennium Development Goals, as well as human rights for all.

The way children are treated by national justice systems is integral to the achievement of rule of law and its related aims. This recognition translated in the 1980s and 1990s into increased attention to the treatment of children as alleged offenders, and the development of international norms and standards for juvenile justice.<sup>2</sup> More recently the situation of child victims and witnesses has also been addressed by the UN<sup>3</sup>. Transitional justice mechanisms have also included some steps to take account of the special situation of children<sup>4</sup>. In addition, the recommendations of the UN General Assembly in response to the UN Report on Violence against Children<sup>5</sup> stress the need to ensure accountability and end impunity for crimes against children. It also recommends the establishment of comprehensive, child-centred, restorative juvenile justice systems that reflect international standards.

Despite this important progress, children are yet to be viewed as key stakeholders in rule of law initiatives. For example, work to implement child justice standards is frequently handled separately from broader justice reform. It is also often undertaken through vertical approaches, aimed at improving either the juvenile justice system or responses to child victims and witnesses, without acknowledging the frequent overlap between these categories and the professionals and institutions with responsibility towards them. Access to justice, though increasingly recognised as an important strategy for protecting the rights of vulnerable groups, and thus for fighting poverty, rarely take children into account.

Ensuring that children are integrated in broader justice reform and have access to fair, transparent and child-sensitive justice systems through which they can enforce and protect their rights would result in stronger, better justice systems overall as well as better fulfilment of human rights standards and UN commitments. The UN Secretary General's report<sup>6</sup> presented at the 61st session of the General Assembly in 2006 lays out a clear framework for the rule of law activities of UN Departments, Agencies Funds and Programmes. It defines three overall rule of law baskets, and notes that the strengthening of national justice systems and institutions is relevant to rule of law in conflict and post conflict and rule of law for long term development. Secretary-General's Policy Committee Decision No. 2006/47 goes on to identify lead entities for the different components of rule of law work and to outline their responsibilities. While UNICEF is identified as the lead agency for juvenile justice, all entities have different roles to play within the overall strengthening of national systems and institutions, in both crisis/post-crisis and development contexts.

This conceptual note outlines strategies for a common UN approach towards justice for children within existing rule of law frameworks. The approach aims to ensure that relevant provisions of the UN Convention on the Rights of the Child (CRC) and other international legal instruments related to child justice are reflected in broader policy reform and implementation efforts. A common approach will help UN entities to leverage support through partners working on broader agendas around rule of law, governance, security and justice

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<sup>1</sup> Rule of law "refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency". Security Council, the Rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary General, S/2004/616, August 2004

<sup>2</sup> The relevant international legal instruments are listed in Annex II

<sup>3</sup> UN Guidelines of Matters of Justice involving Child Victims and Witnesses. ECOSOC Resolution 2005/20. See also Optional Protocol on the sale of children, child prostitution and child pornography, article 8, and related documents in Annex II.

<sup>4</sup> See for example articles 36, 42, 54 and 68 of the Rome Statute

<sup>5</sup> UNICEF, OHCHR and WHO jointly supported the study, which was carried out by an independent expert appointed by the UNSG. See Report of the independent expert for the United Nations Study on violence against children (August 2006), A/61/299

<sup>6</sup> General Assembly, Uniting our strengths: Enhancing United Nations support for the rule of law, Report of the Secretary General, A/61/636-S/2006/980, 14 December 2006

sector reform in which justice for children can easily be integrated. It is also expected to bring further cost-effectiveness and to maximize results of respective efforts.

The concept paper is presented in three parts. Part I provides the rationale for this concept paper and defines the term 'justice for children' and the basic elements of the approach. Part II recalls what brings UN entities together around this concept, i.e. a human rights mandate and the UN coherence agenda. Part III goes on to describe the approach in more detail, highlighting both how children can better be taken into account within existing rule of law and related development strategies and how to reinforce additional, complementary interventions in view of improving respect for children's rights.

### Definition of justice for children

The goal of the justice for children approach is to ensure that children<sup>7</sup> are better served and protected by justice systems<sup>8</sup>. It specifically aims at ensuring full application of international norms and standards for all children who come into contact with justice systems as victims, witnesses and alleged offenders; or for other reasons where judicial intervention is needed, for example regarding their care, custody or protection<sup>9</sup>. Whatever the reasons for children being in contact with justice systems, they are usually dealt with by the same institutions and professionals.

This goal also includes ensuring **children's access to justice** to seek and obtain redress in criminal and civil matters. Access to justice can be defined as the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards (including the CRC). Lack of access to justice is a defining attribute of poverty and an impediment to poverty eradication and gender equality. Children's access to justice is therefore a vital part of the UN mandate to reduce poverty and fulfil children's rights. Proper access to justice requires legal empowerment of all children: all should be enabled to claim their rights, through legal and other services such as child rights education or advice and support from knowledgeable adults.

For the purpose of this note, a **justice**<sup>10</sup> **system** comprises both (1) state-run justice and law enforcement institutions, including the judiciary (criminal and civil), justice and interior ministries, the police, prisons, criminal investigation and prosecution services and (2) non-state justice mechanisms, i.e. the whole range of traditional, customary, religious and informal mechanisms that deal with disputes at community levels.<sup>11</sup> It also includes related entities and mechanisms such as professionals associations, parliaments, law reform commissions, law faculties, judicial/police training centres, academic centres, human rights commissions, ombudsmen, NGOs and legal aid volunteers. In certain cases, armed forces are also included, for example when they are entrusted with policing powers under national laws or where they are to be integrated into new or reformed law enforcement bodies. Generally, the justice system is considered as part of the **security sector** in its broad terms. As per the report of the Secretary-General on the role of the UN in supporting security sector reform, "security sector is a broad term used to describe the structures, institutions and personnel responsible for the management, provision and oversight of security in a country"<sup>12</sup>. In addition to the justice system as described in this paragraph, it is generally accepted that the security sector also includes defence and intelligence services, as well as other actors that play a role in managing and overseeing the design and implementation of security, such as relevant ministries, legislative bodies and civil society groups, and other non-state actors such as private security services and customary or informal authorities. **Social welfare systems** – including the set of social protection laws, regulations, services and social work professionals – also have an important role to play in justice for children issues, as further detailed Part III, point 3 below.

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<sup>7</sup> As per article 1 of the UN Convention on the Rights of the Child a child is « [e]very human being below the age of eighteen years unless, under the law application to the child, majority is attained earlier »

<sup>8</sup> See definition of justice systems below

<sup>9</sup> Justice for children goes beyond juvenile justice – i.e. work with children in conflict with the law – to include all children going through justice systems, for whichever reason (victims, witnesses, care, custody, alleged offenders, etc.)

<sup>10</sup> The above mentioned Secretary-General's report on "Rule of law and transitional justice in conflict and post-conflict societies", August 2004, defines justice as "an ideal of accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. Justice implies regard for the rights of the accused, for the interests of victims and for the well-being of society at large."

<sup>11</sup> DFID, Brief on Non-state Justice and Security Systems, Policy Division, May 2004. Although 'state' and 'non-state' is the terminology used in this note, it is acknowledged that informal, 'non-state' resolution mechanisms are sometimes established by the State itself

<sup>12</sup> General Assembly/Security Council, Securing peace and development: the role of the United Nations in supporting security sector reform, Report of the Secretary General, A/62/659-S/2008/39, 23 January 2008

## Some important guiding principles pertaining to justice for children

Upholding human rights principles and standards is at the heart of rule of law work, including justice for children. The following child rights principles, based on international legal standards and norms<sup>13</sup>, should guide all justice for children interventions, from policy development to direct work with children:

1. **Every child has the right to have his or her best interests given primary consideration.** In all actions concerning children, whether undertaken by courts of law, administrative or other authorities, including non-state, the best interests of the child must be a primary consideration. This principle is to be applied both when taking decisions regarding an individual child or for children as a group. This principle should guide the whole process (judicial, administrative or other) but also be a primary consideration in determining in the first place whether the child should participate in the process or not.
2. **Every child has the right to be treated fairly and equally, free from all kinds of discrimination.** The principle of non-discrimination underpins the development of justice for children programming and support programmes for all children's access to justice. Special attention needs to be given to the most vulnerable groups of children including – but not limited to – children associated with armed groups, children without parental care, children with disabilities, children belonging to minority groups, migrant children, children born as a result of war-time rape and children affected by HIV/AIDS. This also means that children deprived of liberty and children involved in war time atrocities – often perceived as 'less deserving' – have the same rights as other children. A gender sensitive approach should be taken in all interventions. In particular, the specific vulnerability of girl soldiers due to the counter-cultural conduct that arms bearing represents and the ensuing social stigmatization should be acknowledged. Similarly, the specific needs of girls in (juvenile) justice systems, generally premised on male models, should be taken into account. Services offered should not be constrained by gender stereotypes and should provide a range of options for both boys and girls.
3. **Every child has the right to express his or her views freely and to be heard.** Children have a particular right to be heard in any judicial and administrative proceedings, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law. It implies for example that the child receives adequate information about the process, the options and possible consequences of these options; and that the methodology used to question children and the context (e.g. where children are interviewed, by whom and how) be child-friendly and adapted to the particular child. In conflict and post-conflict contexts, it is also important to fully involve children in transitional justice processes. Children's meaningful participation in state-run and non-state justice proceedings often requires a significant change in law, legal practice and attitudes. Particular obstacles faced by girls in having their voices heard, such as a lack of confidence or experience in being listened to and taken seriously, should be accommodated for.
4. **Every child has the right to protection from abuse, exploitation and violence.** Children in contact with the law should be protected from hardship while going through state-run and non-state justice proceedings, as well as after the process. Procedures have therefore to be adapted and appropriate protective measures put in place, noting that the risks faced by boys and girls will differ. Torture or other cruel, inhuman or degrading treatment or punishment (including corporal punishment<sup>14</sup>) must be prohibited. Also, capital punishment and life imprisonment without possibility of release shall not be imposed for offences committed by children.
5. **Every child has the right to be treated with dignity and compassion.** Every child has to be treated as a unique and valuable human being and as such his or her individual dignity, special needs, interests and privacy should be respected and protected.
6. **Respect for legal guarantees and safeguards.** Basic procedural safeguards as set forth in relevant national and international standards and norms shall be guaranteed at all stages of proceedings in both state-run and non-state systems, as well as in international justice. This includes for example the right to privacy, the right to legal aid and other type of assistance and the right to challenge any decision with a higher judicial authority.

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<sup>13</sup> See list of international instruments in Annex II

<sup>14</sup> See General Comment n° 8, UN Committee on the Rights of the Child (2006), "The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment"

7. **Prevention of conflict with the law as a crucial element of any juvenile justice policy**<sup>15</sup>. Within juvenile justice policies, emphasis should be placed on prevention strategies facilitating the successful socialisation and integration of all children, in particular through the family, the community, peer groups, schools, vocational training and the world of work. In particular, prevention programmes should focus on support for particularly vulnerable children and families.
8. **Deprivation of liberty of children should only be used as a measure of last resort and for the shortest appropriate period of time.** Provisions should therefore be made for restorative justice, diversion mechanisms and alternatives to deprivation of liberty. For the same reason, programming on justice for children needs to build on informal and traditional justice systems as long as they respect basic human rights principles and standards, such as gender equality.

## **PART TWO: WHAT BRINGS UN ENTITIES TOGETHER AROUND JUSTICE FOR CHILDREN**

This section describes why a common approach to justice for children among UN Departments, Agencies Funds and Programmes, including field presences, is important and relevant. In doing so, it highlights what brings UN entities together around this subject, i.e. (1) a common mandate around realising human rights & the Millennium Development Goals and (2) the UN coherence agenda.

### **Realizing human rights & the Millennium Development Goals (MDGs)**

UN entities involved in the justice for children approach are all mandated to support countries in the implementation of human rights standards – including these pertaining to justice for children – in line with their respective mandates<sup>16</sup>. All are obliged to uphold the principles listed in the previous section. All entities involved therefore have a common objective of fulfilling the rights of children going through justice systems. All are also guided by a human rights based approach to programming. A human rights approach seeks to develop people's capacity to demand accountability in three main ways: (1) by defining a minimum scope of legitimate claims, i.e. human rights, (2) by enhancing the accountability mechanisms and processes through which they protect these claims, such as justice systems, and (3) by empowering people, including the poor, excluded and marginalised, to claim their rights.

The Millennium Declaration and Millennium Development Goals (MDGs) provide a framework for the entire UN system to work coherently together towards a common end.<sup>17</sup> The eight Millennium Development Goals form a blueprint agreed to by all the world's countries and leading development institutions. They have galvanized unprecedented efforts to meet the needs of the world's poorest. A number of MDGs relate to children's rights, in particular goals 1 to 7, and the Millennium Declaration comprises a specific section on protecting the vulnerable, including children. In line with the concept of the indivisibility and interdependence of human rights, the realization of the Millennium Development Goals on poverty, health, education and gender cannot be achieved without proper attention to child protection. It has also been acknowledged that gender equality is central to achieving all of the Millennium Development Goals. As detailed below, justice systems can be powerful tools in breaking the cycle of poverty.

In addition to the Millennium Declaration and MDGs, in 2002, the General Assembly special session on children adopted the document *World Fit for Children*.<sup>18</sup> Most of the 10 objectives also apply to justice for children.<sup>19</sup> More recently, the report of the independent expert for the UN study on violence against children<sup>20</sup> (2006) also included recommendations directly related to justice for children. It for example requires States to "establish comprehensive, child-centred, restorative juvenile justice systems that reflect international standards". The recommendations also focus on reducing the numbers of children entering justice systems

<sup>15</sup> Prevention of child rights violations in general is not included in the scope of the present common UN approach on justice for children (see definition). However, restoring rule of law is generally considered as a strategy to prevent further abuse and violations, including – but not limited to – prevention of institutional violence

<sup>16</sup> Agencies' mandates are detailed in Annex III

<sup>17</sup> General Assembly, United Nations Millennium Declaration, fifty-fifth session, September 2000

<sup>18</sup> General Assembly, *A World Fit for Children*, resolution 27/2, October 2002

<sup>19</sup> Objective 1 calls for the best interests of the child in all actions; objective 2 calls for investment in children; objective 3 for the end of all forms of discrimination against children; objective 6 for the protection of children from harm and exploitation and objective 7 for the protection of children from war

<sup>20</sup> General Assembly, Report of the independent expert for the United Nations study on violence against children, A/61/299, August 2006

and ensuring accountability and ending impunity by bringing all perpetrators of violence against children to justice.

### **Reducing poverty**

Adherence to the rule of law (including justice for children) and poverty reduction are strongly related. This link is increasingly acknowledged by multi and bilateral actors. Children living in poor households are the most vulnerable to contact with the law as victims, witnesses and offenders. They are more prone to see their rights denied and more vulnerable to exploitation. At the same time, it is often harder for the poor, excluded and marginalised to seek and obtain redress. As a result, they may fall further into poverty. Failure of states to provide protection from crime and access to justice impedes development. States with poorly functioning legal and judicial systems are unattractive to investors.

Legal empowerment, access to justice and functioning justice systems all contribute to poverty reduction. Functioning and accessible justice systems are the main avenues to claim for rights and overcome deprivation, social exclusion and denial of entitlements. These systems however need to be accessible and the poor, including children, need to be legally empowered. In turn, legal empowerment will often spill over to all aspects of children's lives, resulting for example in greater life skills – such as self-protection and self-esteem – and therefore in enhanced harmonious development with a positive impact on the enjoyment of all rights. A functioning justice system can also work as a deterrent of further violations and therefore put an end to the spiral of violence and poverty.

The role of a functioning, accessible justice system and of people's legal empowerment in reducing poverty represents an opportunity for UN agencies to integrate justice for children into poverty reduction strategies. In countries where a Poverty Reduction Strategy (PRS) process is underway, this process – and the broad consultation it implies – will be the natural venue for promoting the integration of justice for children issues into poverty reduction strategies and to actively engage with partners.

### **UN coherence agenda & aid effectiveness**

In the context of the UN reform, UN entities are invited to increasingly work together on the implementation of programmes which are coherent within one overall framework, in the pursuit of one set of goals. The UN coherence agenda provides entities with opportunities to enhance their cooperation in various sectors, including the rule of law and justice for children. A decision of the Secretary-General in November 2006<sup>21</sup> states that “in order to strengthen and rationalise UN capacities in the rule of law area”, one of the main objectives for UN entities should be to “significantly enhance coherence and coordination across the UN system and with non-UN actors, both at the global and country level”. With this objective in mind, lead entities have been designated for specific areas of rule of law. The designation of a lead entity for a particular area does not however imply an exclusive implementation role and lead entities will take into account and draw on the capacities and expertise of other entities. At country level, UNDAFs are expected to be the framework within which joint objectives and interventions as detailed below are formulated. The present paper is therefore a contribution to an enhanced UN coherence in the rule of law area.

In the same vein, UN entities are also directed by the World Summit (September 2005) to work in line with the Paris Declaration on Aid Effectiveness (March 2005) that aims at reforming the way aid is managed and delivered. The Declaration spells out principles for aid effectiveness: ownership, alignment, harmonization, mutual accountability and managing for results. This paper, therefore, contributes to increased harmonization around justice for children within the UN and offers the basis for increased harmonization with other actors.

## **PART 3: JUSTICE FOR CHILDREN STRATEGIC INTERVENTIONS**

This part outlines how entities should work together on justice for children issues within the context of human rights, MDGs and UN coherence. The key strategies for cooperation are (1) to integrate justice for children issues within broader programmes aimed at establishing the rule of law and (2) to reinforce additional, complementary programmes to improve respect for children's rights, with a specific focus on community-based efforts to promote access to justice and legal empowerment of the poor, excluded and marginalised.

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<sup>21</sup> Secretary-General, Decision No. 2006/47 – Rule of Law, November 2006  
*UN Common Approach on Justice for Children \_\_ March 08*

## 1. Rule of law as the overarching frame

The justice for children approach is a contribution to an enhanced UN coherence in the rule of law area. In 2004, at the General Assembly, the Secretary General articulated a “common language for the United Nations, incorporating concepts of justice, rule of law and transitional justice”<sup>22</sup>. The international community has recognized the importance of human security, the observance of human rights and rule of law strengthening in conflict and post-conflict societies. Consequently, the United Nations entities have been increasingly required to support rule of law institutions and processes to rebuild justice and bring reconciliation to affected communities. Within this context, there is growing international pressure to establish accountability mechanisms to investigate and record conflict-related human rights and humanitarian law violations committed against civilians as well as to include rule of law and justice reform efforts at the outset of post-conflict and peace building efforts. The establishment of ad hoc tribunals for post-conflict countries (e.g. former Yugoslavia, Rwanda), hybrid tribunals (e.g. Sierra Leone, Cambodia), the deployment of international magistrates in national jurisdictions (Kosovo), the International Criminal Court and numerous truth and reconciliation commissions reflect this momentum.

### a) Existing UN coordination structure

A number of UN entities – including UNDP, DPKO, OHCHR, DPA, UNODC, UNIFEM, UNICEF and OLA – are active in rule of law activities and a growing number of initiatives are being undertaken both at the global and national levels. These initiatives relate to various areas – such as governance, security sector reform<sup>23</sup>, promotion of human rights or legal and judicial reform – and range from legal and institutional reform to institutional capacity development, advocacy and service delivery. Entities’ respective mandates and activities in relation to rule of law and justice for children are listed in Annex III. These activities are coordinated at the global level in the following main forums:

- **Rule of Law Coordination and Resource Group:** As mentioned, in 2006, the Secretary-General has defined a division of labour among key UN entities and established a Rule of Law Coordination and Resource Group in order to strengthen and rationalise UN capacities in the rule of law area<sup>24</sup>. The objective of the Group is to ensure overall coordination across the three rule of law baskets<sup>25</sup>. It consists of key UN entities<sup>26</sup>, charged with specific functions as listed in Annex 1. Each agency is responsible (1) to enhance coherence and coordination across the UN and with non-UN actors at the global and country level and (2) to increase and deepen its own capacities with regards to priority areas. The Group is chaired by the Deputy Secretary-General and supported by a small secretariat, the Rule of Law Unit. Meetings are being held on the basis of needs and are attended by entities’ principals or designates. The General Assembly has reiterated support to the Group and the Rule of Law Unit in a resolution adopted on 6 December 2007<sup>27</sup>.
- **Inter-agency Security Sector Reform (SSR) Task Force:** Within this overall framework, an Inter-agency Security Sector Reform Task Force has been set up in February 2007<sup>28</sup>, reflecting – for the specific area of security reform – the division of labour established for the overall rule of law as described above. The functions of the Task Force include the elaboration of standards and principles to guide and inform UN activities in SSR and the facilitation of interagency consultation and coordination on SSR-related issues. It consults and liaises with the Rule of Law Coordination and Resource Group. The Task Force is co-chaired by UNDP and DPKO. It meets regularly, with a membership similar to the Rule of Law Coordination and Resource Group. A support unit will be created in 2008 to function as a strategic policy development and backstopping capacity for the

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<sup>22</sup> Security Council, the Rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary General, S/2004/616, August 2004

<sup>23</sup> “Security sector reform (SSR) describes a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities that has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect for human rights and the rule of law”. General Assembly/Security Council, Securing peace and development: the role of the United Nations in supporting security sector reform, Report of the Secretary General, A/62/659-S/2008/39, 23 January 2008

<sup>24</sup> Secretary-General, Decision No. 2006/47 – Rule of Law, November 2006

<sup>25</sup> See details on the three baskets below and in Annex I

<sup>26</sup> DPKO, OLA, OHCHR, UNDP, UNHCR, UNODC, DPA and UNIFEM. While UNICEF is not part of the Group, its leadership in the area of juvenile justice and its role in issues related to DDR and MRE, among others, has been recognised

<sup>27</sup> A/RES/62/70, 6 December 2007

<sup>28</sup> Decision of the Secretary-General No. 2007/11, 16 February 2007



UN system on SSR matters. It will be an interagency capacity located in DPKO. The Task Force has prepared the first Secretary-General report on SSR that defines and presents the scope of UN's SSR work<sup>29</sup>.

- **Global Protection Cluster Working Group (PCWG):** Established in September 2005 as part of the humanitarian reform, the Protection Cluster Working Group (PCWG) is the main inter-agency forum at headquarters-level for collaboration and overall coordination of activities supporting protection in humanitarian action. At the global level, the PCWG facilitates more predictable, accountable and effective response through capacity building, policy and tool development and operational support to the field. With engagement on rule of law in ongoing conflict/crisis situations within an early recovery framework, UNDP is recognized as the Rule of Law focal point agency within the PCWG. In its role as a Focal Point, UNDP aims to work closely with UNICEF and other PCWG members to support building sound justice systems in both conflict and natural disasters situations, and ensure effective linkages to the Rule of Law Coordination and Resource Group and the Rule of Law Unit.
- **The Interagency Panel on Juvenile Justice (IPJJ):** The Interagency Panel on Juvenile Justice (IPJJ) was established by ECOSOC Resolution 1997/30, and brings together the main UN agencies and NGOs working in the area of juvenile justice<sup>30</sup>. The Panel aims to facilitate and enhance country and global level coordination in juvenile justice by: identifying panel member organizations working at country level and their activities; encouraging respective field offices to work together towards a common approach at country level; promoting on-going dialogue with national partners in juvenile justice issues; identifying, developing and disseminating common tools and good practices; and bringing protection of the rights of children in conflict with the law onto the agenda of the international community
- **At country level,** several forums are relevant to justice for children discussions, depending on the local situation. Justice for children could for example be discussed in the Protection cluster when established in response to a crisis or in human rights and child protection sector groups.

#### b) Rule of law baskets

In a second report in 2006<sup>31</sup>, the Secretary-General has grouped rule of law activities in three main baskets<sup>32</sup>:

- Basket 1: rule of law at the international level
- Basket 2: rule of law in the context of conflict and post-conflict situations
- Basket 3: rule of law in the context of long-term development

Justice for children is a cross-cutting issue that should be addressed throughout all three baskets. Examples of how UN entities could work together in this respect are suggested below, using the main elements of each basket as the structure<sup>33</sup>. The system-related elements of baskets 2 and 3 are discussed under point 3 below ("*Strengthening national systems from crisis outbreak through long-term development*"). Other elements related to basket 2, such as transitional justice, are discussed under point 4 ("*Additional aspects to take into account in crisis and post crisis situations*").

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<sup>29</sup> General Assembly/Security Council, Securing peace and development: the role of the United Nations in supporting security sector reform, Report of the Secretary General, A/62/659-S/2008/39, 23 January 2008

<sup>30</sup> The Panel members currently are: Office of the United Nations High Commissioner for Human Rights (OHCHR); United Nations Children's Fund (UNICEF); United Nations Department of Peacekeeping Operations (DPKO); United Nations Development Programme (UNDP); United Nations Office on Drugs and Crime (UNODC); Committee on the Rights of the Child; Defence for Children International (DCI); Penal Reform International (PRI); Save the Children UK; Terre des hommes - aide à l'enfance (Tdh); World Organization Against Torture (OMCT); the International Association of Youth and Family Judges and Magistrates (IAYFJM) and the International Juvenile Justice Observatory (IJJO)

<sup>31</sup> General Assembly/Security Council, Uniting our strengths: Enhancing United Nations support for the rule of law, A/61/636—S/2006/980, December 2006

<sup>32</sup> See Annex I on Rule of Law baskets and sectors

<sup>33</sup> The Rule of Law Coordination and Resource Group is still discussing some of the content of the baskets. Current arrangements are also to be reviewed on a case by case basis. As a result, the suggestions listed in this paper will also be reviewed and fine-tuned as the Group progresses in its work

## **2. Rule of law at the international level<sup>34</sup>**

The importance and relevance of UN entities' commitment towards international law has already been mentioned earlier in this paper. In line with entities' comparative advantages, practical examples of interventions in relation to justice for children within this first basket include:

- Promote the signature, ratification and implementation of multi-lateral treaties pertaining to justice for children<sup>35</sup>, as well as the use and application – at the national and regional levels – of relevant United Nations standards and norms in crime prevention and criminal justice, and assist states in preparing the necessary implementing legislation in relation to the above mentioned legal instruments.
- Make the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child, their protocols and related justice for children documents, including relevant United Nations standards and norms in crime prevention and criminal justice, widely known and understood and promote their use in all policy making and law development processes; in particular, promote the General Comment from the UN Committee on the Rights of the Child<sup>36</sup> that defines the elements of the legal and policy framework in the area of juvenile justice.
- Promote attention to justice for children in human rights treaty bodies; in particular, support the role of the UN Committee on the Rights of the Child in monitoring the international standards pertaining to justice for children, including through the dissemination of concluding observations and provision of technical support in their implementation.
- Promote attention to child victims and witnesses in the International Criminal Court and ad hoc or hybrid tribunals, including through the design of child friendly procedures in line with the UN Guidelines on justice in Matters involving Child Victims and Witnesses of Crime, with special attention to crimes of a particularly sensitive nature such as sexual assault experienced by children, which may expose the victim to socio-cultural repercussions such as 'honor crimes' or ostracism.

## **3. Strengthening national systems from crisis and post-crisis through long-term development**

Functioning state-run and non-state justice systems at the national level are obviously a pre-requisite for rule of law in the context of crisis and post-crisis situations (second basket), as well as in the context of long-term development (third basket). Legal, judicial and law enforcement institutions, as well as non-formal mechanisms, need to be up and running and have the capacity to proceed with cases. They also need to be able to address children's specific rights and needs, which is often not the case. In parallel to strengthening the justice system, the social welfare/protection system should also enhance its ability to help ensure that child parties, victims, witnesses and offenders receive full respect for their rights. As they are inter-related, both the justice and social sectors will need to be strengthened and their interaction enhanced in order to bring lasting results for children.

So as to ensure continuity, rule of law activities in crisis, post-crisis and long-term development contexts need to closely mirror each other. The shift from the initial emergency response, to early recovery, post-crisis and mid/long term development is a continuous process where each stage builds on the previous one, without clear-cut separation in between the stages. Therefore, strategic interventions listed below need to be undertaken as soon as possible during or after the crisis.

The strategic interventions are divided into two main categories: (1) the integration of children's issues into broader rule of law efforts and (2) the strengthening of justice and social systems in order to ensure full respect for children's rights.

### **a) Integration of children's issues into broader efforts**

With this common approach, UN entities commit to fully reflect child rights as put forth in international norms and standards in all rule of law efforts, and in line with these norms, ensure that their interventions mainly

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<sup>34</sup> This basket covers international law issues at both the national and international levels

<sup>35</sup> See list in Annex II

<sup>36</sup> Committee on the Rights of the Child, General Comment No. 10 "Children's rights in juvenile justice", CRC/C/GC/10, 9 February 2007

promote restorative justice, diversion from the judicial system and alternatives to deprivation of liberty. Interventions include:

- In **national planning processes**, such as national development plans, CCA/UNDAF, justice sector wide approaches (SWAps), poverty assessments/Poverty Reduction Strategies, and policies or plans of action developed as a follow up to the UN Global Study on Violence against Children.
- In **legal, institutional and policy reform efforts** at national and regional levels<sup>37</sup>. The UN Convention on the Rights of the Child – the most widely-ratified human rights treaty – as well as relevant UN standards and norms in crime prevention and criminal justice may be a good entry points for broader legal, institutional and policy reform.
- In **institutional capacity development and training programmes** (in-service, initial, inclusion in curriculum) for legal and judicial institutions (prosecution, legal assistance and representation, ministries of justice, criminal law, court administration, civil law) and law enforcement, parliaments, paralegal professionals<sup>38</sup>, the social sector, institutions and prison staff. Training on procedural or substantive issues could also be provided to non-state justice personnel and should include sensitization to a gender perspective.
- In **codes of conduct, standards for selection and recruitment** and **standards of practice** for law enforcement, judiciary, prisons management and staff, lawyers, social workers, paralegals and other professionals in touch with children in contact with the law.
- In programmes promoting the **accountability of law enforcement** such as, for example, police accountability mechanisms or citizen review boards of police conduct.
- When establishing or reforming human rights **monitoring bodies** (parliamentary committees, ombudsman offices, human rights commissions, etc.), ensuring that due attention is given to children in justice systems, including within closed institutions. These bodies could also play a role in ensuring that non-state mechanisms are compliant with human rights.
- When discussing and deciding on the allocation of **national budgets & international aid**, in order to ensure sufficient means for the reforms.

#### **b) Strengthening of justice and social systems in order to ensure full respect for children's rights**

In addition to the above, particular areas need to be reinforced in order to ensure full respect of children's rights, including:

- **Building the knowledge base on children in justice systems**, such as through the creation and maintenance of national databases on children in the justice system, the development of national research agendas on the nature and extent of crimes by and against children<sup>39</sup>, including victimological research, or analyses of the cost deprivation of liberty versus alternatives or of the impact of detention on creating a safe society. Research should be conducted on the use of non-state justice mechanisms by children and their respect for child rights within these mechanisms, always accounting for a gender perspective. These assessments should inform Common Country Assessments (CCA). Good justice for children practices should be documented.
- **Raising awareness on the rights of children going through justice systems** as victims, witnesses and offenders (or for any other reason), as well as the impact of going through such systems on children. The rights of particular groups of children, such as girls, minority and indigenous children, disabled

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<sup>37</sup> When it comes to juvenile justice, the General Comment 10 issued by the UN Committee on the Rights of the Child in February 2007 and the ECOSOC resolution on Supporting national efforts for child justice reform (E/CN.15/2007/L.10/Rev.1, April 2007) are important guiding documents

<sup>38</sup> "Paralegals are laypersons, often drawn from the groups they serve, who receive specialized legal training and who provide various forms of legal education, advice and assistance to the disadvantaged". Stephen Golub, *Beyond Rule of Law Orthodoxy: the legal empowerment alternative*; Rule of Law Series, Carnegie Endowment for International Peace, Democracy and the Rule of Law Project, No. 41, October 2003; p. 33.

<sup>39</sup> Recommendations from the Report of the independent expert for the United Nations study on violence against children, A/61/299, August 2006

children and children with HIV/AIDS, and the differential impact of justice systems on these groups is an important focus. This will be an opportunity to highlight for example that “violence against child victims, witnesses and offenders is preventable and not justifiable<sup>40</sup>”, that many children in the criminal justice system do not belong there and that ‘tough on crime’ policies generally do not result in a safer society.

- **Promoting restorative justice, diversion and alternatives to deprivation of liberty.** In line with the principle of deprivation of liberty as a measure of last resort, restorative justice, diversion and constructive alternatives to deprivation of liberty that promote the child’s reintegration into society should be established. Children can be considered a relatively less controversial entry point to promote such alternative measures for adults as well.
- **Promoting non-state/informal justice mechanisms in line with child rights.** It is estimated that in many developing countries the vast majority of disputes are dealt with outside of the state-run system. Non-state justice mechanisms tend to address issues that are of direct relevance to the most disadvantaged children, including protection of land and property for children orphaned by HIV/AIDS or conflict, the resolution of family and community disputes and protection of entitlements, such as access to public services. These systems may be less intimidating and closer to children both physically and in terms of their concerns. In many instances, however, work needs to be done with communities to bring these mechanisms in line with child rights and to remove discriminatory biases towards women and girls.
- **Enabling the full involvement of the social sector** in justice for children issues and strengthening coordination between the social and justice sectors. The social sector has an important role to play at several levels: (1) in the prevention of conflict with the law (e.g. supporting families at risk), (2) during the judicial or extra-judicial process (e.g. preparing and/or assisting the child during the interview or conducting a social inquiry), (3) in diversion programs and the provision of alternatives to deprivation of liberty (e.g. providing orientation, supervision or probation services), (4) in the provision of support services to children victims of abuse, exploitation and violence, (5) at the reintegration stage (including preparing the family for the child’s return).
- Assisting governments’ ability to prevent crimes against children and to detect, investigate and prosecute offenders, including through building the capacity of justice, military, law enforcement and social welfare professionals and reinforcing multi-disciplinary cooperation among sectors. This includes **gender-based violence** against children, **including sexual violence, as well as trafficking.**

#### 4. Legal empowerment & access to justice

Functioning national state-run and non-state justice systems as described above will remain irrelevant if children, including the most disadvantaged, cannot access it. Barriers to access can include economic barriers, legal and institutional discrimination, lack of awareness, lack of capacity, insufficient outreach, lack of trust of formal institutions, inadequate protection, fear of reprisal or lack of physical access. Access to justice should as much as possible be maintained throughout emergencies, ensuring a response to ‘usual’ legal claims as they occur in any society but also to those directly related to the crisis, such as property, guardianship or claims for assistance. Addressing these immediate issues is a necessary step in maintaining, strengthening or restoring rule of law. In line with a human rights based approach to programming, all people should have equal access to legal remedies. The principle of non-discrimination implies therefore a special focus on those groups that do not have access. Accordingly, programmes should pro-actively promote specific measures and support that favour marginalised or excluded groups, including children. Aspects of disempowerment particular to, or disproportionately experienced by, girls should be given particular attention.

Legal empowerment is a key concept in this respect. It can be defined as “the use of legal services and related development activities to increase disadvantaged populations’ control over their lives”<sup>41</sup>. Complementing the top-down, institutions-based rule of law approach, it generally strengthens civil society and the legal capacities and power of the poor, excluded and marginalized in order to address their priorities. Legal empowerment can be considered a component of access to justice but also has wider implications (in terms of increasing control over one’s life). It is a necessary complement to legal and institutional reform as, in many countries, laws are not fully implemented and enforced, especially as far as the provisions for the most

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<sup>40</sup> Report of the independent expert for the United Nations study on violence against children, August 2006, A/61/299

<sup>41</sup> Beyond Rule of Law Orthodoxy, the legal empowerment alternative; Stephen Golub; Carnegie Endowment for International Peace; October 2003

disadvantaged are concerned. Without proper legal empowerment, rule of law efforts also often do not give sufficient attention to the needs of those most in need, especially children, and cannot translate into significant improvements in people's lives. Legal empowerment work at the community level can in turn inform and influence legal reform at the national level.

Possible strategic interventions again include both the integration of children's issues into existing initiatives and interventions to be strengthened in order to ensure full respect for children's rights. Regarding the former, the integration of children issues in access to justice initiatives would occur when identifying the groups whose equal access to justice are most at stake, as well as the barriers to access, and when defining the strategies to remove these. For the latter, interventions to be strengthened in order to ensure full respect for children's rights include:

- Ensuring **child rights education & legal awareness for all children** (including girls, displaced and migrant children, street children, orphans and separated children, children belonging to minority groups, children deprived of liberty, children with disabilities and other disadvantaged groups), **as well as for families and communities**. This implies that the child is informed of his or her rights and understands what to expect and not to expect from justice systems. This includes also understanding the benefits, but also the risks in seeking justice (e.g. in terms of security). As much as possible, such awareness programmes should be integrated in school curricula as well as in existing initiatives such as life-skills education, psychosocial counseling or child-friendly spaces, as part of broader efforts to help children gain control over their lives. Parents and communities at large should also be empowered, in order to bring action on behalf of children (especially the younger) when necessary but also as a way to defend the rights of the whole household. All adults working with children can actually be relevant resources for children to access justice systems, in terms of information and support.
- **Drawing on child participation** projects (or establish such projects if not available) to ensure that children are involved from the outset in identifying legal matters important to them, as well as – in post-conflict situations – the most appropriate transitional justice mechanism(s) and ways to enhance dialogue within the community. This would also facilitate their adequate representation in restitution decision-making processes.
- Promoting child-sensitive procedures and methods that ensure the child's **full-fledged participation in judicial, administrative and community-based processes**. This might require changes in law, legal practice (such as interview techniques), capacities and physical environment and, more generally, attitudes towards child participation.
- Supporting **community-based legal and paralegal services for children**. This would include (1) developing the capacity of lawyers' networks and Bar Associations, but also paralegal professionals, including women, from the concerned community. Paralegals are an important multi-faceted resource in providing basic legal information, advice, representing children in administrative processes, assisting litigation and generally promoting rights awareness. As members of the community, these people are often closer to children's concerns and less intimidating to them; (2) Support or establish NGO-run services at the community level such as legal information centers, legal aid clinics, and socio-legal defense centers to provide legal information and representation to children, along with other services (e.g. psychosocial counseling). In emergencies and post-emergencies, these services and professionals must be enabled to tackle guardianship, inheritance and other public law issues, in particular for orphaned, returning child refugees and internally displaced children.
- **Support civil society organizations in facilitating children's access to non-state justice systems**. In particular, build civil society organizations' capacity in raising awareness on non-state justice mechanisms among the population, train justice providers in human rights issues, monitor the activities of non-state mechanisms, report on human rights abuses and help ensure fair outcomes. They should also assist these mechanisms to become more responsive to the needs of children.

## 5. Additional aspects to take into account in crisis and post-crisis situations

As already mentioned, the strategic interventions listed in the previous sections should be initiated as soon as possible from the outbreak of crisis, through the early recovery phase and post-crisis stages. This section describes additional possible interventions that reflect the specificities of crisis and post-crisis situations.

Crisis situations (conflicts and natural disasters) indeed often result in a partial or complete collapse of the justice and security sector – including for example damage to infrastructure and insufficient capacity and/or leadership to provide effective public service, including administration of justice. In situations of armed conflict, continued threat of conflict and violence further compound this lack of institutional capacity. Conflict in itself can be a sign that the legal system has failed to manage disputes between groups or individuals. Also, in some cases, the police and other judicial institutions themselves might be a source of public insecurity, intimidation or violence or are mistrusted following abusive practices. In these cases, a country needs to undertake in-depth reforms to come to terms with past violations of human rights and other factors contributing to instability. In the context of conflict and post-conflict situations, the security sector is also of particular relevance to justice for children. Security is a strong concern for populations and a particularly essential condition for recovery. It requires well-managed and competent personnel operating within an institutional framework defined by law. A badly managed security sector hampers development, discourages investment and contributes to perpetuate poverty.

Children are particularly affected by unstable situations and this specific vulnerability should be acknowledged at all times. They can be separated from their caregivers, orphaned or distressed by what they have seen and gone through. Abuse, exploitation, violence and discrimination are generally exacerbated in times of crisis. Children are among the prime victims of gender-based violence, sexual exploitation or recruitment by armed forces. They are also often affected by increased domestic violence as external tensions in the community often permeate into homes. The proliferation of small arms and light weapons in the wake of war is a particular source of insecurity and intimidation for women and children, increasing both the frequency and severity of domestic violence. They sometimes are pushed into conflict with the law, as a survival strategy or as a direct consequence of the overall breakdown in order. Justice programming should therefore be complementary to humanitarian and relief work to prevent or mitigate situations of high risk for children during emergencies. As they eliminate impunity, fair and effective justice systems are also often a way to prevent additional violations.

In recent decades, children have been increasingly affected and targeted by warfare, including abduction, rape, forced marriage and recruitment as soldiers. Most of these crimes are committed with impunity. A call for greater national and international accountability in this respect has led to developments in international law that have placed more importance on the prosecution of crimes against children<sup>42</sup>. Therefore, an important aspect of post-conflict Justice for Children is transitional justice. In his 2004 Report on rule of law and transitional justice in conflict and post-conflict situations, the Secretary General defined the notion as comprising “the full range of processes and mechanisms associated with a society’s attempt to come terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.”<sup>43</sup> These may include both judicial and non-judicial mechanisms, with different levels of international involvement and individual prosecutions, reparations, truth seeking, institutional reform, vetting and dismissals or a combination thereof. Accountability mechanisms may take many forms, including: the International Criminal Court (ICC), ad-hoc and hybrid tribunals, prosecution in national courts, and non-judicial mechanisms, such as Truth and Reconciliation Commissions and traditional practices.

Examples of strategic interventions in crisis and post-crisis contexts include:

- Ensuring that children’s concerns and their rights are included in **peace agreements**. These provide important entry points and an opportunity to establish the justice systems’ goals and principles and ensure that children are fully taken into account.
- Ensuring that children’s concerns are included in discussion on **transitional justice** mechanisms from the outset – including in ad hoc investigations, fact finding and commissions of inquiry – and that provisions are made for their full-fledged participation in such mechanisms. Procedures need to be in line with the UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime and children’s participation must be guided by the principle of their best interests.
- Promoting the post-crisis situation as an **opportunity to establish a juvenile justice system** adapted to the needs of the country and to develop national strategies aiming at the child’s rehabilitation, including

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<sup>42</sup> UNICEF Innocenti Centre, Expert Discussion on Transitional Justice and Children, Outcome Document, 10-12 November 2005.

<sup>43</sup> Security Council, the Rule of law and transitional justice in conflict and post-conflict societies, Report of the Secretary General, S/2004/616, August 2004

principles of restorative justice, diversion measures and alternatives to deprivation of liberty. Crisis situations indeed often provide opportunities for government restructuring and legislative overhaul and to 'build back better', including through a reform of the justice system. While many immediate post-crisis interventions focus on short-term capacity development, infrastructure rehabilitation and transitional justice initiatives, these efforts should be part of a broader strategy aimed at establishing a national justice system in line with international standards in the mid to long term.

- In parallel, support should also be provided to **non-state justice mechanisms** as it is likely that they would have operated in some form throughout the crisis period and may play a critical role in the immediate aftermath when restoring security and rule of law is a priority. As already mentioned these mechanisms will often have to be brought in line with human rights – and more specifically women and girls' rights – for example through improved monitoring, awareness raising and capacity development.
- Ensuring that **children's concerns are included in security and justice discussions** and initiatives, including peacekeeping missions and joint UN assessments and planning missions, from the outset; advocate for their voices to be heard and promote understanding that the issues they face are likely to be key determinants in achieving peace. In terms of security sector reform, this might include for example including child rights, gender sensitization, mediation and conflict resolution in training for security forces and law enforcement and focusing on their responsibilities as duty-bearers in the protection of children. This should include training for peacekeeping missions, with a focus on military and police peacekeepers.
- (Re)building the capacity of local human and child rights/child protection organizations, institutions and agencies, the media and community groups to **advocate on behalf of children and monitor fulfillment of their rights**. In particular, in conflict situations, this should include supporting the establishment of a monitoring and reporting mechanism for child rights violations as per Security Council Resolution 1612.<sup>44</sup> Information collected through the mechanism should also inform transitional justice processes. Attention should also be paid to the implementation of Security Council Resolution 1325<sup>45</sup> on Women, Peace and Security that covers girls' protection as well.
- **Developing the capacity of legal services, civil society and paralegals on legal issues** of particular relevance to children in crisis and post-crisis situations, such as guardianship, land and property rights (with due attention to the plight of girls who may not be permitted to lawfully inherit or own property), registration, national identification and citizenship, statelessness, as well as grave violations of human rights such as sexual-and-gender based violence. In doing so, specific attention should be given to possible discriminatory practices for example towards certain ethnic groups, girls, adopted or illegitimate children. Paralegal professionals should be composed of both women and men.
- **Developing the capacity of civil society to design and run programmes in relation to justice for children in emergencies**, aiming at keeping children away from conflict with the law (including information on the risks of exploitation, abduction and recruitment by armed forces), improving detention conditions or ensuring rapid disarmament, demobilization and reintegration of children who have been associated with armed forces, including as part of the overall efforts to demobilize and reintegrate militia groups and noting equal access to reinsertion packages for girls.
- **Advocating with donors** for significant resources to be invested in justice for children as part of the response to the crisis; for example, include justice for children issues in Common Humanitarian Action Plans (CHAP) and Consolidated Appeal Processes (CAP) when relevant, as well as joint programmes and funding through new mechanisms such as the Peacebuilding Fund.

## 6. Cross-cutting areas of cooperation on justice for children

In addition to the above, a common UN approach to justice for children includes the following cross-cutting areas of cooperation, to be implemented by UN entities jointly at headquarters and country levels depending on the local context and capacities. These are generic activities that would need to be further developed in specific programming papers and adapted at country level.

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<sup>44</sup> Security Council, Resolution 1612, 26 July 2005

<sup>45</sup> Security Council, Resolution 1325, 31 October 2000

- Developing common guidelines and tools:
  - Develop common guidelines and tools as informed by the needs at country levels, including possibly a handbook on programming on justice for children and monitoring indicators specific to children
  - Document and collect existing as well as emerging good practices and lessons learned on the protection and participation of children in justice systems
  - Create a website on justice for children (or expand an existing one) with links to each UN agency, including existing tools and good practices
  - Develop guidelines on best interests determination in justice processes
  - Develop ethical guidelines for all professionals working with children in contact with the law
  
- Inter-Agency Advocacy:
  - Assign and maintain a dedicated focal point(s) within each UN agency involved and ensure that his/her contacts are widely shared among networks and reference groups working on justice
  - Ensure that children's issues are systematically taken into account in UN documents on rule of law, access to justice, security sector reform and transitional justice
  - Promote the issue of justice for children in existing UN networks and reference groups in both stable and unstable environments (such as the RoL Coordination and Resource Group and the Protection Cluster in emergencies situations)
  - Publicize the work of those networks and reference groups through the internet/intranet and publications
  - Develop specific country taskforces on justice for children within existing forums such as (child) protection networks
  
- Fundraising:
  - Ensure that justice for children related funding requirements are reflected in funding frameworks prepared by UN agencies (such as CAP, UNDAF or bilateral)
  - Advocate with the government for justice for children to be taken into consideration in budget allocation
  - Advocate with donors for justice for children to be included into rule of law funding
  - Explore ways to allocate some of the existing rule of law funded projects to address justice for children
  
- Expanding partnerships:
  - Enhancing relationships with bilateral donors and international financial institutions such as the World Bank to work effectively with multi-donor trust funds implementing programmes on rule of law and justice for children
  - Explore partnerships with international and national NGOs working on justice for children issues
  
- Building internal capacity:
  - Organise joint training of UN staff on the issue of justice for children
  - Integrate justice for children issues in pre-deployment training and material for relevant staff in peacekeeping missions



**ANNEX I: Table on rule of law baskets and sectors and integration of justice for children within each basket/sector**

Basket	Components/sectors	Proposition for integration of Justice for children activities
Rule of law at the international level	Issues related to the Charter of the United Nations Multilateral treaties International Dispute Resolution Mechanisms International Criminal Court Advocacy, training and education regarding international law	X X X
Rule of law in the context of conflict and post-conflict situations	Transitional Justice <i>National Transitional Justice Consultation Processes</i> <i>Truth and Reconciliation Mechanisms</i> <i>Reparation Processes</i> <i>International and Hybrid Tribunals</i> <i>National Human Rights Institutions</i> <i>Vetting Processes</i> <i>Ad Hoc Investigations, Fact Finding and Commissions of Inquiry</i>  Strengthening of National Justice Systems and Institutions <i>Legal and Judicial Institutions</i> <i>Court Administration</i> <i>Civil Law</i> <i>Police and Law Enforcement Agencies</i> <i>Prisons</i> <i>Integrating Human Rights Norms and Standards across all Areas</i> <i>Monitoring</i> <i>Administration of Trust Funds</i>  Other Priority Areas <i>Customary, Traditional and Community based Justice and Dispute Resolution Mechanisms</i> <i>Victim and Witness Protection and Assistance</i> <i>Anti-corruption, Organized Crime, Transnational Crime, Trafficking and Drugs</i> <i>Legal Education</i> <i>Juvenile Justice</i> <i>Specific Public Law Issues</i> <i>Interim Law Enforcement and Executive Judicial and other Functions performed by the UN</i> <i>Security Support to National Law Enforcement Agencies</i>	X  X X X X X  X X X X X X  X X X X X X  X X X X X X X X X X
Rule of law in the context of long-term development	<i>Strengthening of National Justice and Standards across all Areas</i> <i>Integrating Human Rights Norms</i> <i>Monitoring</i> <i>Police, Law Enforcement Agencies and Prisons</i>	X X X X

## **ANNEX II: Some relevant international legal instruments pertaining to justice for children**

### ***Convention on the Rights of the Child 1989 (CRC)***

The CRC, binding for its States Parties, sets forth the rights of all children, including child victims, witnesses and offenders. It is complemented by other legally binding instruments, as well as further detailed by additional rules and guidelines pertaining to juvenile justice as well as children victims and witnesses. All are listed below.

### ***Guidelines and rules pertaining to juvenile justice***

- United Nations Standard Minimum Rules for the Administration of Juvenile Justice 1985 (Beijing Rules)
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty 1990 (JDLs)
- United Nations Guidelines for the Prevention of Juvenile Delinquency 1990 (Riyadh Guidelines)
- United Nations Minimum Rules for Non-Custodial Measures 1990 (the Tokyo Rules)
- Guidelines for Action on Children in the Criminal Justice System, ECOSOC Resolution 1997/30, 1997
- Basic principles on the use of restorative justice programmes in criminal matters (ECOSOC resolution 2002/12, annex)
- General Comment of the Committee on the Rights of the Child on children's rights in juvenile justice. This document outlines the core elements of a comprehensive juvenile justice policy (2007).

In addition, instruments regulating civil and political rights generally, as well as the administration of justice and treatment of prisoners in particular also apply to children as to all human beings (e.g. 1955 Standard Minimum Rules for the Treatment of Prisoners or 1966 International Covenant on Civil and Political Rights (ICCPR)).

### ***Instruments pertaining to child victims and witnesses***

Binding documents:

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, 2000
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Trans-national Organized Crime, 2000
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182), 1999
- In situations of international armed conflict: Geneva Conventions III; IV of 1949; Additional Protocol I of 1977
- In situations of non-international armed conflict: Article 3 Common to Geneva Conventions of 1949; Additional Protocol II of 1977

Additional rules and guidelines:

- UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, ECOSOC Resolution 2005/20, 2005
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly resolution 40/34, 1985
- Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), February 2007
- African Charter on the Rights and Welfare of the Child

***More United Nations standards and norms in crime prevention and criminal justice*** – see website of UN Office for Drugs and Crime (UNODC) for more details, <http://www.unodc.org>

### **ANNEX III: Mandates of UN entities in relation to justice for children<sup>46</sup>**

This annex recalls the mandate of each UN agency involved in justice issues and its main activities in relation to justice for children.

- The **United Nations Office on Drugs and Crime (UNODC)** is the lead UN agency for carrying out activities in international crime prevention and control by strengthening regional and international cooperation in preventing and combating trans-national crime and promoting efforts to combat trafficking, transnational organized crime, money-laundering, corruption and terrorism. UNODC is also mandated to assist States in the reform and strengthening of their criminal justice systems and developing and promoting the use and application of international instruments, standards and norms in crime prevention and criminal justice<sup>47</sup>, including those related to juvenile justice and child victims and witnesses. UNODC implements technical cooperation projects, including in post-conflict settings, to prevent youth involvement in crime, strengthen juvenile justice systems and improve the rehabilitation and treatment of young people in conflict with the law, as well as to improve the protection of child victims.
- The **Office of the United Nations High Commissioner for Human Rights (OHCHR)** is the leading agency within the United Nations system on the promotion and protection of human rights, including transitional justice. It is committed to strengthening the United Nations human rights programme and providing the United Nations treaty monitoring bodies, including the UN Committee on the Rights of the Child and special mechanisms established by the Commission on Human Rights. OHCHR provides support and guidance on transitional justice issues, including the development of policy tools and assistance in the design, establishment and implementation of transitional justice mechanisms. OHCHR provides cooperation in the field of the administration of justice, including juvenile justice. While OHCHR does not have a specific department dealing with children, OHCHR is committed to assisting States in implementing the Convention on the Rights of the Child along with other relevant international norms and standards and to follow up recommendations made by the Committee on the Rights of the Child.
- The **United Nations Children's Fund (UNICEF)** is mandated by the United Nations General Assembly to advocate for the protection of children's rights. UNICEF takes a preventative approach against the abuse and exploitation of children by supporting governments to create a protective environment for all children. UNICEF works to ensure that children are better served by justice systems that provide greater protection for victims, witnesses and offenders. It also focuses on ensuring better access to justice for children, reducing recourse to deprivation of liberty, through the promotion of child-sensitive investigation and court procedures, non-custodial sanctions, restorative justice and diversion, recovery and reintegration of children and prevention of abuse and exploitation.
- The **United Nations Development Programmes (UNDP)** is the UN's global development network. UNDP's network links and coordinates global and national efforts to reach the Millennium Development Goals (MDGs). UNDP supports national capacities with regard to administration of formal and informal justice systems. It is also engaged in transitional justice programmes and support restructuring and capacity development of the police, security sector reform programmes and prison reform. UNDP is also recognized as the focal point agency on Rule of Law within the Protection Cluster when the cluster approach is triggered in large scale crisis situations.
- The **Department of Peacekeeping Operations of the Secretariat (DPKO)** leads on support to policing and supports other rule of law-related aspects of peacekeeping operations, such as justice and legal systems and prison systems. It also convenes the United Nations Rule of Law Focal Point Network, a mechanism for coordinating rule of law strategies for peace operations. DPKO does not have specific guidelines on justice for children, but often work together with UNICEF and UNDP in peace operations and post-conflict contexts. DPKO has developed a guidance manual for correctional facilities as well as minimum standards for the treatment of juveniles in prisons.

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<sup>46</sup> While only UN agencies are listed for the purpose of this note, it is important to note that several international NGOs work in the area of Justice for Children, including Save the Children UK, Save the Children US, Defence for Children International, Penal Reform International. Major donors such as DFID, USAID, AusAID and CIDA and financial institutions such as the World Bank also support programmes in the area of Justice Reform.

<sup>47</sup> Emanating from its governing body the Commission on Crime Prevention and Criminal Justice

- The **United Nations Development Fund for Women (UNIFEM)** is the women's fund at the United Nations. It provides financial and technical assistance to innovative programmes and strategies to foster women's empowerment and gender equality. Placing the advancement of women's human rights at the centre of all of its efforts, UNIFEM focuses its activities on four strategic areas: strengthening women's economic security and rights; ending violence against women; reversing the spread of HIV/AIDS among women and girls; achieving gender equality in democratic governance in times of peace as well as war. In this respect, UNIFEM assists in developing programmes and strategies that focus on ensuring gender equality and gender justice in peace processes as well as rehabilitation and reconstruction processes.
- The **Office of the United Nations High Commissioner for Refugees (UNHCR)** works towards the establishment of coherent national asylum systems based on law, securing access of refugees and internally displaced persons to justice during their displacement as well as in the context of return operations. It also contributes to the prevention and reduction of statelessness by providing legal and technical advice to States and contributes to the adoption of standard-setting instruments at global and regional levels.
- In addition, the following UN entities also have links with justice for children: United Nations Population Fund (UNFPA) (through its work on domestic violence, GBV and trafficking), International Labour Organization (ILO) (through child labour), the United Nations Program on HIV/AIDS (UNAIDS) (through non-discrimination and access to fair mechanism for people living with HIV/AIDS as well as HIV/AIDS in prisons) and UNESCO (culture of peace promotion).

## **ANNEX IV: Acronyms**

AusAID	Australian Government's Overseas Aid Program
CIDA	Canadian International Development Agency
CRC	Convention on the Rights of the Child
DfID	Department for International Development (UK)
DPKO	Department of Peacekeeping Operations
ILO	International Labour Organization
MDG	Millennium Development Goal
NGO	Non-Governmental Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
PRS	Poverty reduction strategy
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCHR	Office of the United Nations High Commissioner for Human Rights
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's' Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
UNSG	United Nations Secretary General
USAID	US Agency for International Development
WFFC	World Fit for Children